

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

JEREMY PINSON,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CIV-07-0572-F
	)	
JOHN WHETSEL, et al.,	)	
	)	
Defendants.	)	

**ORDER**

Plaintiff, a prisoner now in the custody of the Federal Bureau of Prisons, filed this action pursuant to 42 U.S.C. § 1983 complaining of violations of his constitutional rights while a pretrial detainee in the Oklahoma County Detention Center. Plaintiff proceeds *pro se*, and his pleadings are liberally construed. Magistrate Judge Bana Roberts' Report and Recommendation of March 7, 2008 (the Report, doc. no. 90) makes a number of recommendations to the undersigned. Plaintiff has timely objected to some of those recommendations (objections at doc. no. 92). Plaintiff's objections also include a request to consolidate claims alleged in another action, Pinson v. Porter, et al. (CIV-08-0198-F), with this action.

The court has reviewed all objected to matters *de novo*, and has reviewed all other aspects of the Magistrate Judge's Report. Having done so, the court concurs with the Magistrate Judge's Report and Recommendation. The Report provided plaintiff with the opportunity to clarify his intent regarding certain claims alleged against defendants Whetsel (who was sued only in his official capacity so that this claim is duplicative of the claim against the county) and Oklahoma County. Plaintiff

has clarified his intent, and the Report recommended action in the event of such clarification with which the court agrees.

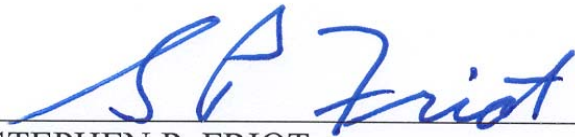
Accordingly, the Report and Recommendation of the Magistrate Judge is **ACCEPTED, ADOPTED, and AFFIRMED**. In accordance with the Magistrate Judge's recommendations, the court rules as follows.

Plaintiff's motion for joinder, construed as a motion to amend to add certain named defendants (doc. no. 88), is granted. Defendant Oklahoma County's motion to dismiss (doc. no. 42) is granted; plaintiff's claims against Oklahoma County are dismissed without prejudice on the grounds of ineffective service and for failure to state a claim upon which relief can be granted; plaintiff is granted leave to amend his claims against Oklahoma County; the time limit otherwise prescribed by Rule 4(m), Fed. R. Civ. P., is extended for forty-five days from today's date to allow plaintiff a reasonable period within which to properly effect service upon Oklahoma County. The motion to dismiss by defendants Carson, Sedbrook, Howland, Todd, and Thomas (doc. no. 77), is denied as to these defendants in their official capacities and granted as to these defendants in their individual capacities. Plaintiff is granted thirty days within which to amend his complaint against these defendants in their individual capacities. Plaintiff's motion for partial summary judgment (doc. no. 57) is denied.

Plaintiff's request that this action and CIV-08-198-F be consolidated in this action as the single, surviving action, constitutes a new motion improperly included in plaintiff's objections to the Report. This request is stricken without prejudice to re-urging by way of a proper motion to the Magistrate Judge in this (the earlier-filed) action. In the event such a motion is filed, the Magistrate Judge will then recommend action on the motion to the undersigned.

This action continues as a referred action under the terms of the original referral to the Magistrate Judge.

Dated this 21<sup>st</sup> day of April, 2008.

  
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STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

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